

[DISCUSSION DRAFT]

108TH CONGRESS
2D SESSION

H. R. _____

To [purpose to be supplied].

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To [purpose to be supplied].

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Satellite Home Viewer
5 Improvement Reauthorization Act”.



1 **TITLE I—OPERATIONS OF THE**
2 **FEDERAL COMMUNICATIONS**
3 **COMMISSION**

4 **SEC. 101. CARRIAGE OF LOCAL STATIONS ON A SINGLE**
5 **DISH.**

6 Section 338(d) of the Communications Act of 1934
7 (47 U.S.C. 338(d) is amended—

8 (1) by striking the following:

9 “(d) CHANNEL POSITIONING.—No satellite carrier”,
10 and inserting the following:

11 “(d) RECEPTION BY SUBSCRIBERS.—

12 “(1) CHANNEL POSITIONING.—No satellite car-
13 rier”; and

14 (2) by adding at the end the following new
15 paragraph:

16 “(2) CARRIAGE OF LOCAL STATIONS ON A SIN-
17 GLE DISH.—

18 “(A) SINGLE DISH.—The contiguous sig-
19 nals required by paragraph (1) shall be made
20 available to the subscribers through a single re-
21 ception antenna and associated equipment.

22 “(B) IMPLEMENTATION.—With respect to
23 any subscriber receiving signals on the date of
24 enactment of the Satellite Home Viewer Im-
25 provement Reauthorization Act, the require-



1 ment of subparagraph (A) shall apply on and
2 after 180 days after such date of enactment.

3 “(C) TEMPORARY MARKET-BY-MARKET
4 WAIVERS.—If a carrier demonstrates to the
5 Commission that (i) constraints relating to lack
6 of available spectrum capacity prevent the car-
7 rier from making available in a given market all
8 local broadcast stations to subscribers through
9 a single reception antenna and associated
10 equipment, and (ii) such lack of capacity will
11 cause that carrier to stop delivering local broad-
12 cast station signals in a specified market, then
13 the Commission may grant a temporary waiver
14 to such carrier with respect to such market to
15 permit such carrier an additional 180 days
16 (after the expiration of the 180-day period pro-
17 vided in subparagraph (B)) to come into com-
18 pliance with subparagraph (A) in such market.
19 A waiver under this subparagraph may not be
20 renewed or extended.”.

21 **SEC. 102. REVIEW AND IMPROVEMENT OF WAIVER AND**
22 **TESTING PROCEDURES.**

23 Section 339(c) of the Communications Act of 1934
24 (47 U.S.C. 339(c)) is amended by adding at the end the
25 following new paragraph:



1 “(6) AUTHORITY TO IMPROVE MODEL AND AP-
2 PLICATION/WAIVER PROCESS.—

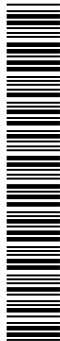
3 “(A) PROCEEDING REQUIRED.—Within 6
4 months after the date of enactment of the Sat-
5 ellite Home Viewer Improvement Reauthoriza-
6 tion Act, the Commission shall complete a
7 proceeding—

8 “(i) to revise the Individual Location
9 Longley-Rice Model to take into account
10 the sources and effects of interference;

11 “(ii) to propose other improvements to
12 such model; and

13 “(iii) to examine and adopt alter-
14 natives to, or modifications of, the proce-
15 dures required by paragraphs (2) and (4)
16 for determining a subscriber’s inability to
17 receive a signal that meets the signal in-
18 tensity standard in effect under section
19 119(d)(10)(A) of title 17, United States
20 Code.

21 “(B) CONDITIONS FOR ADOPTION OF
22 CHANGES.—The Commission shall by regulation
23 take the actions described in clause (i) of sub-
24 paragraph (A) within 6 months after such date
25 of enactment, and may take the actions de-



1 scribed in clauses (ii) and (iii) of such subpara-
2 graph if the Commission determines such ac-
3 tions to be appropriate.”.

4 **SEC. 103. RECIPROCAL BARGAINING OBLIGATIONS.**

5 (a) AMENDMENTS.—Section 325(b)(3)(C) of such
6 Act is further amended—

7 (1) by striking “Within 45 days” and all that
8 follows through “1999, the” and inserting “The”;

9 (2) by striking the second sentence;

10 (3) by striking “and” at the end of clause (i);

11 (4) in clause (ii)—

12 (A) by striking “January 1, 2006” and in-
13 serting “January 1, 2010”

14 (B) by striking the period at the end and
15 inserting “; and”; and

16 (5) by adding at the end the following new
17 clauses:

18 “(iii) until January 1, 2010, prohibit
19 a multichannel video programming dis-
20 tributor from failing to negotiate in good
21 faith for retransmission consent under this
22 section, and it shall not be a failure to ne-
23 gotiate in good faith if the distributor en-
24 ters into retransmission consent agree-
25 ments containing different terms and con-



1 ditions, including price terms, with dif-
2 ferent broadcast stations if such different
3 terms and conditions are based on com-
4 petitive marketplace considerations.”.

5 (b) DEADLINE.—The Federal Communications Com-
6 mission shall prescribe regulations to implement the
7 amendments made by subsection (a)(5) within 6 months
8 after the date of enactment of this Act.

9 **SEC. 104. UNSERVED DIGITAL CUSTOMERS.**

10 (a) INQUIRY REQUIRED.—The Federal Communica-
11 tions Commission shall initiate an inquiry to determine the
12 appropriate methodologies or models (or both) for deter-
13 mining which subscribers to satellite carriers are in loca-
14 tions where the subscriber will be unable, on and after
15 January 1, 2007, to receive broadcast digital television
16 signals of sufficient intensity to be able to receive and dis-
17 play digital television service using receiving terrestrial an-
18 tennas of reasonable cost and ease of installation.

19 (b) REPORT REQUIRED.—The Federal Communica-
20 tions Commission shall submit a report on the results of
21 the inquiry required by subsection (a) to the Committee
22 on Energy and Commerce of the House of Representatives
23 and the Committee on Commerce, Science, and Transpor-
24 tation of the Senate not later than December 31, 2005.



1 **TITLE II—EXTENSION AND**
2 **MODIFICATION OF CARRIAGE**

3 **SEC. 201. EXTENSIONS OF AUTHORITY.**

4 (a) RETRANSMISSION CONSENT.—Section
5 325(b)(2)(C) of the Communications Act of 1934 (47
6 U.S.C. 325(b)(2)(C)) is amended by striking “December
7 31, 2004” and inserting “December 31, 2009”.

8 (b) STATUTORY LICENCE.—Section 119 of title 17,
9 United States Code, is amended—

10 (1) [to be supplied].

11 **SEC. 202. CABLE/SATELLITE COMPARABILITY.**

12 (a) ADDITIONAL PERMITTED SIGNALS.—Part I of
13 title III of the Communications Act of 1934 is amended
14 by inserting after section 339 (47 U.S.C. 339) the fol-
15 lowing new section:

16 **“SEC. 340. ADDITIONAL LOCAL SIGNALS PERMITTED TO BE**
17 **CARRIED.**

18 “(a) ADDITIONAL STATIONS ELIGIBLE.—In addition
19 to the signals that a community may receive under section
20 338, a community that is eligible to receive a retrans-
21 mission of a broadcast station by a cable system—

22 “(1) pursuant to section 111 of title 17, United
23 States Code, on the basis of such station of being
24 treated as significantly viewed in accordance with
25 the rules, regulations and authorizations of the Fed-



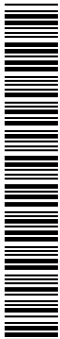
1 eral Communications Commission (47 C.F.R.
2 76.5(i), 76.54, 76.92(f), 76.106(a)), or

3 “(2) pursuant to section 614(h)(1)(C) on the
4 basis of a market modification based on the viewing
5 patterns or other factors described in such section,
6 may receive the retransmission of the signal of such sta-
7 tion from a satellite carrier in accordance with this sec-
8 tion. A signal that is eligible to be carried under this sec-
9 tion is not required to be carried pursuant to section 338.

10 “(b) TREATMENT OF COMMUNITIES AND STA-
11 TIONS.—

12 “(1) EXISTING TREATMENT.—Any community
13 that is, on the date of enactment of the Satellite
14 Home Viewer Improvement Reauthorization Act, eli-
15 gible to receive a retransmission of a broadcast sta-
16 tion by a cable system on the basis described in
17 paragraph (1) or (2) of subsection (a), shall be eligi-
18 ble for carriage by a satellite carrier under this sec-
19 tion on and after such date, and until the Commis-
20 sion determines that such carrier is no longer eligi-
21 ble under this section.

22 “(2) PROCEDURE TO ADD NEW STATIONS.—
23 [Procedures by which stations, communities, cable
24 systems, and satellite carriers can petition Commis-



1 sion to add communities to local market under para-
2 graph (1)—to be supplied】”.

3 (b) STATUTORY LICENSE.—Section 119(a)(2) of title
4 17, United States Code, is amended by adding at the end
5 the following new subparagraph:

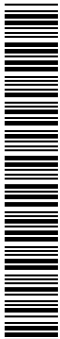
6 “(D) ADDITIONAL COMMUNITIES.—

7 “(i) LICENSE APPLICABLE.—The stat-
8 utory license provided in subparagraph (A)
9 shall apply to the secondary transmission
10 of a network station to subscribers who re-
11 side within any community that is eligible
12 to receive the signal of such station pursu-
13 ant to section 340.

14 “(ii) NO ROYALTY FEE REQUIRED.—A
15 satellite carrier whose secondary trans-
16 missions are subject to this subparagraph
17 shall have no royalty obligation for such
18 secondary transmissions.”.

19 (c) INAPPLICABILITY OF NETWORK NONDUPLICA-
20 TION AND SYNDICATED EXCLUSIVITY.—Section 339(b) of
21 the Communications Act of 1934 (47 U.S.C. 339(b)) is
22 amended by adding at the end the following new para-
23 graph:

24 “(3) INAPPLICABILITY TO ADDITIONAL STA-
25 TIONS.—The regulations required by paragraph (1)



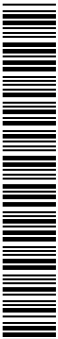
1 shall not apply to the retransmission of signals that
2 are carried by a satellite carrier pursuant to a statu-
3 tory licence under section 119(a)(2)(D).”.

4 **SEC. 203. REPLACEMENT OF DISTANT SIGNALS WITH**
5 **LOCAL SIGNALS.**

6 (a) AMENDMENT.—Subparagraph (B) of section
7 339(a)(1) of the Communications Act of 1934 (47 U.S.C.
8 339(a)(1)(B)) is amended to read as follows:

9 “(B) REPLACEMENT OF DISTANT SIGNALS
10 WITH LOCAL SIGNALS.—

11 “(i) IN GENERAL.—Notwithstanding
12 subparagraph (A), a satellite carrier that
13 provides service under the statutory license
14 of section 122 of title 17, United States
15 Code, to any subscriber in the local market
16 within which such household is located by
17 retransmitting the signal of a network sta-
18 tion may not provide service under the
19 statutory license of section 119 of such
20 title, other than a service provided pursu-
21 ant to section 119(a)(2)(D) of such title,
22 to such local market by transmitting the
23 signal of a station owned or operated by,
24 or affiliated with, the same network.



1 “(ii) EXCEPTION.—Clause (i) shall
2 not apply to require the termination of
3 service under the statutory license of sec-
4 tion 119 of such title to a subscriber who,
5 on the date of enactment of the Satellite
6 Home Viewer Improvement Reauthoriza-
7 tion Act, was receiving such service but
8 was not receiving service under the statu-
9 tory license of section 122 of such title.
10 Such a subscriber may continue to receive
11 service under the statutory license of sec-
12 tion 119 of such title until such subscriber
13 elects to receive service under the statutory
14 license of section 122 of such title.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall be effective 6 months after the date
17 of enactment of this Act.

18 **TITLE III—MODERNIZATION OF**
19 **COMPULSORY LICENSES**

20 **SEC. 301. [TO BE SUPPLIED].**

